

TAX POLICY DIRECTIVE #12
Charity Gaming
September, 2001

PURPOSE. Tax policy directives are intended to provide the general public with information concerning the Department's official position with regard to specific issues. These directives may be relied upon by taxpayers until superseded by:

- (1) another policy directive,
- (2) a change in statute or regulation, or,
- (3) a court decision that has the effect of voiding the policy directive.

SUBJECT: INTERPRETATION AND APPLICATION OF CHARITY GAMING AMENDMENTS CONTAINED IN P. L. 129-2001 (SECTION 1)

REFERENCES: IC 4-32-9, 45 IAC 18

BACKGROUND. The 2001 General Assembly adopted House Enrolled Act 1578, which among other things, will make changes to IC 4-32-9-21. The Department's ultimate intention is to adopt an administrative rule to formally spell out how these changes will be interpreted and applied. However, since these statutory changes have already taken effect (July 21, 2001), this directive is intended to bridge the gap until an administrative rule can be put into place.

I. DEFINITION OF "NATIONALLY RECOGNIZED CHARITABLE ORGANIZATION". The Department defines such an organization as one which:

- (1) possesses a determination letter or a ruling from the Internal Revenue Service stating that the organization is currently exempt from taxation under 26 U. S. C. 501, or is listed in Internal Revenue Service Publication 78 (Cumulative List of Organizations),
- (2) is organized primarily for charitable purposes,
- (3) is incorporated (or legally authorized to do business) in at least three states including Indiana; and
- (4) has a national membership of at least 5,000 people.

II. DEFINITION OF "SERVES A MAJORITY OF COUNTIES IN INDIANA". The Department defines this phrase to mean that a "nationally recognized charitable organization" must do the following:

- (1) maintain an office with a mailing address which is open for business during posted business hours; and

(2) directly assist selected individuals or conducts other charitable activity.
Both services must be continuously available and ongoing in at least 47 Indiana counties.

III. DEFINITION OF “IN EXISTENCE FOR AT LEAST 25 YEARS...”. The Department defines this phrase to mean that the “nationally recognized charitable organization” must have been continuously incorporated (or legally authorized to do business) for at least 25 years as a charitable organization, in each of at least three states (including Indiana).

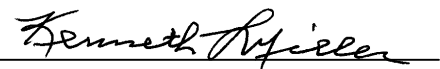
IV. EFFECTS OF 2001 CHANGES ON EXISTING LAW. (1) Prior to the 2001 legislative amendments, an Indiana “qualified organization” was allowed to conduct charitable gaming events in only one county (the location of its principal business office; see IC 4-32-9-21.). The principal effect of the 2001 changes is to allow certain “qualified organizations” to hold events in counties other than those containing their principal offices.

(2) The Department will continue to enforce the daily and annual event limits contained in IC 4-32-9-18 and elsewhere in IC 4-32-9. The 2001 changes do not affect these limits.

(3) Also, current law only allows for one license per day for each allowable event conducted by a qualified organization. Even if a qualified organization is licensed to operate an event in more than one county, the Department will still issue only one license per day for each allowable event to each qualified organization.

(4) IC 4-32-9-5(b) states that an officer of a qualified organization who signs an application for a bingo license must live in the county in which the proposed bingo events will be held. Presumably, this provision would limit the number of counties in which such events could be held, to the maximum number of officers of a “qualified organization”; e. g., five officers, thus five counties). If this interpretation were sustained, the 2001 changes would be essentially moot. Therefore, in order to give effect to the 2001 changes, the Department interprets those changes as having the effect of overriding IC 4-32-9-5(b).

A copy of the 2001 amendments to IC 4-32-9-21 is attached for reference.



Kenneth L. Miller, Commissioner
Indiana Department of State Revenue

Attachment (SECTION 1 of P. L. 129-2001)

ATTACHMENT (SECTION 1, P. L. 129-2001)

SECTION 1. IC 4-32-9-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 21, 2001]: Sec. 21. Except where a qualified organization or its affiliate is having a convention or other annual meeting of its membership, a qualified organization may only conduct an allowable event in the county where the principal office of the qualified organization is located. The principal office of a qualified organization shall be determined as follows:

(1) Except as provided in subdivision (3) **or subdivision (4)**, if a qualified organization is a corporation, the principal office shall be determined by the street address of the corporation's registered office on file with the secretary of state.

(2) If a qualified organization is not a corporation, the principal office shall be determined by the street address of the organization on file with the Internal Revenue Service, the department, or county property tax assessment board of appeals for tax exempt purposes.

(3) If a qualified organization is affiliated with a parent organization that:

(A) is organized in Indiana; and

(B) has been in existence for at least five (5) years;

the principal office shall be determined by the principal place of business of the qualified organization.

(4) If a qualified organization is affiliated with a parent organization that:

(A) is a nationally recognized charitable organization;

(B) serves a majority of counties in Indiana; and

(C) has been in existence for at least twenty-five (25) years;

the principal office shall be deemed to be present in every county served by the organization.